

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

DAVID FINNEMAN,  Plaintiff,  v.  UNITED STATES DEPARTMENT OF AGRICULTURE, RISK MANAGEMENT AGENCY, and FEDERAL CROP INSURANCE CORPORATION,  Defendants.	5:23-cv-05034-KES  DEFENDANTS' RESPONSE TO PLAINTIFF'S ADDITIONAL STATEMENT OF MATERIAL FACTS IN DOCKET 43
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COMES NOW the Defendants, the United States Department of Agriculture ("USDA"), Risk Management Agency ("RMA"), and Federal Crop Insurance Corporation ("FCIC"), and, in accordance with D.S.D. Civ. LR 56.1, submit the following Response to Plaintiff's Additional Statement of Material Facts. Record citations are to the Administrative Case Record for NAD Case No. 2023W000038 ("AR").

1. The facts in paragraph one of Plaintiff's Additional SOMF are not material to the matter before the Court. The arbitrator's decision is unrelated to the ultimate issue and decision issued by the NAD Director.
2. As to the substantive APA matter before the Court, the facts in paragraph two of Plaintiff's additional SOMF are not material to the matter before the Court. The separate pending lawsuit by Pro Ag is unrelated to the ultimate issue and decision issued by the NAD Director. As to any jurisdictional issues relating to standing, the Court may take judicial notice of the pending matter if relevant.

3. As to paragraph 3 of Plaintiff's additional SOMF, Defendants admit that Finneman filed a request with RMA which is part of the administrative record below. Whether the request was contemporaneous with a counterclaim in a separate pending lawsuit is unrelated to the ultimate issue and decision issued by the NAD Director and not a material fact. As to any jurisdictional issues related to standing, the Court may take judicial notice of any filed pleadings if relevant to any jurisdictional issues.
4. Plaintiff's paragraph 4 to its additional SOMF is incomplete. The RMA letter quoted is not included in its entirety. Defendant admits that on October 31, 2022, Defendant RMA issued a final decision letter and that decision letter is part of the administrative record in its entirety but the quote in paragraph 7 is not the letter in its entirety and Plaintiff's alteration to the font infuses characterization/implications not in the original.
5. As to paragraph 5 of Plaintiff's additional SOMF, Defendants admit Plaintiff has exhausted his administrative remedies. The rest of Plaintiff's SOMF in paragraph 11 is not a material fact but a legal conclusion. What claims were raised by Plaintiff and what grounds they were based upon is a legal decision for the Court.

Dated this 7th day of May, 2024.

ALISON J. RAMSDELL  
UNITED STATES ATTORNEY

*/s/ Stephanie C. Bengford*

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